

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7088

BILL NUMBER: SB 404

NOTE PREPARED: Dec 30, 2010

BILL AMENDED:

SUBJECT: Transmitting Wireless Messages While Driving.

FIRST AUTHOR: Sen. Lanane

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill makes it a Class C infraction to use a handheld wireless communications device to transmit a text message or electronic mail message while operating a moving motor vehicle, and enhances the penalty for repeat offenses or if the offense results in serious bodily injury.

Effective Date: July 1, 2011.

Explanation of State Expenditures: Summary - The bill could increase revenue to the state General Fund for transmitting wireless messages while driving, a Class C infraction. It could also increase revenue to the Common School fund from fine revenue for a second offense in 5 years, a Class A misdemeanor, or for the offense resulting in serious bodily injury, a Class D felony.

The penalty for a Class A misdemeanor or a Class D felony could include a term of incarceration in a county or state facility, potentially increasing costs to a county or the state.

Transmitting Wireless Messages While Driving with Serious Bodily Injury: A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$19,307 in FY 2010. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$68,260 in FY 2010. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Transmitting Wireless Messages While Driving:* If additional court cases occur and infraction judgments and court fees are collected, revenue to the state General Fund may increase. The maximum judgment for a Class C infraction is \$500, which is deposited in the state General Fund.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000 and for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the Class C infraction actions are filed and a judgment is entered, a court fee of \$70 (\$120 for a Class A misdemeanor or Class D felony) would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), the public defense administration fee (\$3), the court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Repeat Offense or Underlying Offense with Serious Bodily Injury:* A Class A misdemeanor is punishable by up to one year in jail or if more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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